ɤ

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/680,507	10/06/2003	Ronald Jacoby	08226/1203564-US1	5039

38880 7590 12/01/2006

DARBY & DARBY P.C.
P.O. BOX 5257
NEW YORK, NY 10150-6257

EXAMINER	
AGWUMEZIE, CHARLES C	
ART UNIT	**PAPER NUMBER**
3621	

DATE MAILED: 12/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

Office Action Summary

Application No.	**Applicant(s)**
10/680,507	JACOBY, RONALD
Examiner	**Art Unit**
Charlie C. Agwumezie	3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 October 2003*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date *8/23/06*.

4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

1. Claims 22, and 28 have been amended. Claims 1-30 are pending in this application per the response to office action filed on September 18, 2006.

Response to Arguments

2. Applicant's arguments with respect to claims 1-30 have been considered but are moot in view of the new ground(s) of rejection.

3. Claims 1-30 have been examined.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-7, 11-17, 21-25 and 28-29, are rejected under 35 U.S.C. 102(e) as being anticipated by Rouse U.S. Patent Application Publication No. 2003/0158816 a1.

As per **claim 1, 11 and 21**, Rouse discloses a method for streaming a streaming media file from a server to a client player for consumption of the steaming media file at the client player, the method comprising:

transmitting a metering uniform resource locator (URL) from a first server to a client player over a network (see figs. 3 and 4; 0011; 0036; 0054; 0061);

streaming the streaming media file from a second server to the client player over the network (figs. 3 and 4; 0011; 0036; 0054; 0061).

What Rouse does not explicitly teach is

receiving an embedded metering event in the streaming media file wherein a target of the metering URL is a user meter configured to meter receipt of the embedded metering event (0099; 0100; 0101; 0138) (The concept or practice of embedding metering event in a streaming media is old and well known in the art. For reference, one of ordinary skill in the art may refer to Harvey et al U.S. Patent No. 5,887,243. Harvey et al clearly discloses a method for streaming media comprising: receiving an embedded metering event in the streaming media file wherein a target of the metering URL is a user meter configured to meter receipt of the embedded metering event (figs. 2E-2J; col. 26, lines 30-65; "...meter-monitor segments contain meter information and/or monitor information..." Note: This reference is provided for the purpose of showing what is in the public possession or well known in the art prior to applicant's claimed invention.)); and

ticking the user meter in the first server based on receipt of streaming media file and the embedded metering event (fig. 1; 0035; 0044; 0095; 0097; 0099; 0101;

...server side...for the purpose of deducting credits ...protected webcast and billing both start and stop together....").

As per **claim 2 and 12**, Rouse further discloses the method wherein the metering URL is communicated over a first network link and the streaming media file is communicated over a second network link (fig. 2 and 3; 0006).

As per **claim 3 and 13**, Rouse further discloses the method wherein the metering URL and the streaming media file are communicated over a network link (figs. 1-4; 0094).

As per **claim 4 and 14**, Rouse further discloses the method further comprising communicating a client media player from the first server to the client player (fig. 2).

As per **claim 5 and 15**, Rouse further discloses the method wherein the ticking step occurs in the first server (0138).

As per **claim 6, 16 and 25**, Rouse further discloses the method further comprising:

appending a representation of the encountered embedded metering event to the metering URL to form an appended representation (0035; 0107; 0138);

communicating the appended representation from the client player to the first server (0035; 0107; 0127; 0138); and

decrementing a user account based on the appended representation (0035).

As per **claim 7 and 17**, Rouse further discloses the method further comprising stopping the streaming step if the appended representation is not communicated from the client player to the first server within a predetermined time (fig. 3; 0010; 0095; 0101).

As per **claim 22**, Rouse discloses a streaming media system for streaming a streaming media file from a server to a client browser for consumption of the steaming media file at the client browser, the system comprising:

a client browser configured to tick a user meter (0138);

a first server configured to communicate a metering uniform resource locator (URL) from the first server to the client player over a network, wherein a target of the metering URL is the User meter at a network location other than the client browser (see figs. 3 and 4; 0006; 0007; 0011); and

a second server configured to communicate a streaming media file from the second server to the client browser over the network; wherein the streaming media file includes at least one embedded metering event at a selected time location within the streaming media file (0006; 0138; 0036; 0046); and wherein the client browser is configured to tick the user meter in response to receiving the metering URL from the first server and the at least one embedded metering event from the second server (fig. 1; 0035; 0044; 0095; 0097; 0099; 0101; 0138; ...server side...for the purpose of deducting credits ...protected webcast and billing both start and stop together....").

As per **claim 23**, Rouse further discloses the system further comprising a third server configured to generate the user meter (0138).

As per **claim 24**, Rouse further discloses the system wherein the client browser includes a client media player configured to play the streaming media file (0054; 0056); and wherein the client media player playing the streaming media file encounters the embedded metering event and appends the embedded metering event to the metering URL (0138; 0127).

As per **claim 28**, Rouse discloses a streaming media system wherein a media presentation is streamed to a client system while tracking usage of the media presentation by the client system, the system comprising:

a client player that is configured to present to a user a streamed media presentation (fig. 1);

a streaming server configured to transfer the streamed media presentation to the client player, including embedded metering events represented by data in the streamed media presentation wherein the embedded metering events are dispersed at selected time locations in the streaming media presentation (fig. 2; 0124; 0125; 0138);

an extractor, at the client system, configured to extract embedded metering events from the streamed media presentations and sends them to a usage meter (0138);

Logic at the user meter configured to adjust a user account based on received-metering events (0138); and

control logic configured to discontinue the media presentation if predetermined criteria for one or more of the media presentations and the user account are not met (0138; 0101).

As per **claim 29**, Rouse et al discloses a method for streaming a streaming media file for consumption of the streaming media file by a client player, the method comprising:

transmitting a metering uniform resources locator (URL) to the client player over the network, wherein a target of the metering URL is a user meter at a network location other than client and wherein the user meter meters consumption of the streaming media file by the client player (see figs. 3 and 4; 0011; 0036; 0054; 0061);

embedding a metering indicator in the streaming media file to create an embedded streaming media file (0099; 0100; 0101; 0138) (The concept or practice of embedding metering event in a streaming media is old and well known in the art. For reference, one of ordinary skill in the art may refer to Harvey et al U.S. Patent No.

5,887,243. Harvey et al clearly discloses a method for streaming media comprising: receiving an embedded metering event in the streaming media file wherein a target of the metering URL is a user meter configured to meter receipt of the embedded metering event (figs. 2E-2J; col. 26, lines 30-65; "...meter-monitor segments contain meter information and/or monitor information..." Note: This reference is provided for the purpose of showing what is in the public possession or well known in the art prior to applicant's claimed invention.

));

streaming the embedded streaming media file to the client player over the network (0138);

receiving at the user meter the embedded metering indicator appended to the metering URL (0135; 0138); and

ticking the user meter server based on receipt of the embedded metering indicator (fig. 1; 0035; 0044; 0095; 0097; 0101).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 8, 18 and 26, are rejected under 35 U.S.C. 103(a) as being unpatentable over Rouse U.S. Patent Application Publication No. 2003/0158816 A1 in view of Shamoon et al U.S. Patent Application Publication No. 2004/0107356 A1.

As per **claim 8, 18 and 26**, Rouse failed to explicitly disclose the method further comprising signing the metering URL with a message authentication code (MAC). Rouse however discloses that the URL is a protected URL.

Shamoon et al discloses the method further comprising signing the metering URL with a message authentication code (MAC) (0072; 0073; 0663).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Rouse and incorporate the method, further comprising signing the metering URL with a message authentication code as taught by Shamoon et al in order to provide or ensure adequate security of the URL.

6. **Claims 9, 10, 19, 20, 27 and 30**, are rejected under 35 U.S.C. 103(a) as being unpatentable over Rouse U.S. Patent Application Publication No. 2003/0158816 A1 in view of in view of Tewari et al U.S. Patent Application Publication 2003/0097564 A1.

As per **claim 9, 19 and 30**, Rouse failed to explicitly disclose the method further comprising:

verifying the authenticity of the URL in the first server; and stopping the streaming step if the URL is not verified. Rouse however discloses that the URL is a protected URL.

Tewari et al discloses the method further comprising:

verifying the authenticity of the URL in the first server (see fig. 18; 0014; 0015; 0016); and

stopping the streaming step if the URL is not verified (fig. 18; 0014; 0015; 0016).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Rouse and incorporate the method, further comprising verifying the authenticity of the URL in the first server; and stopping the streaming step if the URL is not verified as taught by Tewari in order to ensure adequate security of protected content.

As per **claim 10, 20 and 27**, Rouse failed to explicitly disclose the method wherein the MAC is an MD5 hash or a SHA1 hash..

Tewari et al discloses the method wherein the MAC is an MD5 hash or a SHA1 hash (0643).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify the method of Rouse and incorporate the method, wherein the MAC is an MD5 hash or a SHA1 hash as taught by Tewari in order to show alternative security measures that can be employed.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art ad are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that the applicant, in preparing the responses, fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles C. Agwumezie whose number is **(571) 272-6838**. The examiner can normally be reached on Monday – Friday 8:00 am – 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on **(571) 272 – 6712**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington D.C. 20231

Or faxed to:

(571) 273-8300. [Official communications; including After Final communications labeled "Box AF"].

(571) 273-8300. [Informal/Draft communications, labeled "PROPOSED" or "DRAFT"].

Hand delivered responses should be brought to the United States Patent and Trademark Office Customer Service Window:

Randolph Building,

401 Dulany Street

Alexandria VA. 22314

Charlie Lion Agwumezie
Patent Examiner
Art Unit 3621
November 24, 2006

AJ Fischer 11/27/06
ANDREW J. FISCHER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600